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HOFFMAN & BARON, LLP
6900 Jericho Turnpike
Syosset, NY 11791

In re Application of
PELLEGRINI et al
U.S. Application No.: 10/542,255
PCT No.: PCT/US04/00423
Int. Filing Date: 09 January 2004
Priority Date: 17 January 2003
Attorney Docket No.: 1368-8 PCT/US
For: METHODS AND SYSTEMS FOR THE
IDENTIFICATION OF RNA
REGULATORY SEQUENCES AND
COMPOUNDS THAT MODULATE
THEIR FUNCTION

DECISION

This is a decision on the "Petition to Withdraw Holding of Abandonment Pursuant to 37 C.F.R. 1.181(a)" filed on 05 December 2007. No fee is required.

BACKGROUND

On 24 February 2006, the United States Designated/Elected Office (DO/EO/US) mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905) indicating that a declaration and CRF sequence listing was required. A two-month time period for response was set with extensions under 37 CFR 1.136(a).

On 25 May 2006, applicants filed a response which included a declaration and a CRF sequence listing diskette and statement regarding the sequence listing.

On 13 March 2007, the DO/EO/US mailed a Notification of a Defective Response (Form PCT/DO/EO/916) indicating that the response filed 25 May 2006 was received but that a CRF sequence listing diskette was required.

On 16 April 2007, applicants purportedly filed a response which included a substitute CRF sequence listing diskette and hard copy of the sequence listing. This response and substitute diskette were not located in the file.

On 23 November 2007, the DO/EO/US mailed a Notification of Abandonment (Form PCT/DO/EO/909) indicating that applicant failed to respond to the Form PCT/DO/EO/905 mailed 24 February 2006 within the time period set therein.

On 05 December 2007, applicants submitted the instant petition which was

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accompanied by, *inter alia*, a copy of the documents purportedly filed 12 April 2007 and a date-stamped postcard receipt for the 12 April 2007 filing. Applicants did not submit a copy of the sequence listing diskette purportedly filed 12 April 2007.

On 26 March 2008, after a telephone call from the undersigned, applicants submitted two copies of the sequence listing on CD.

DISCUSSION

MPEP § 503 lists procedures to ensure receipt of any paper filed in the USPTO. A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO.

In this case, applicants provided a copy of the date-stamped postcard receipt for the documents and diskette submitted 16 April 2007. The postcard receipt records that among other papers, applicants included "A Computer-Readable Form of Sequence Listing (1 disk)." The postcard receipt is stamped "IAP6 Rec'd PCT/PTO 16 APR 2007" across its face. The U.S. application number, attorney docket number, filing date and name of inventors were listed on the postcard receipt.

A check of USPTO records indicated that the CRF sequence listing diskette for the above-captioned application could not be located. After a telephone call from the undersigned, applicants provided two copies of the CRF sequence listing diskette. IN the response, applicants state that there is no change to the sequence listing submitted. The CRF sequence listing diskette was checked by the Office on 02 April 2007 and found to be acceptable.

Accordingly, applicants have provided *prima facie* evidence that a timely and proper response to the Form PCT/DO/EO/916 was originally received by the USPTO on 16 April 2007.

DECISION

Applicants' petition to withdraw the holding of abandonment is **GRANTED**.

The Notification of Abandonment (Form PCT/DO/EO/909) mailed 23 November 2007 is hereby **VACATED**.

This application is being forwarded to the Office of Patent Application Processing

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for continued processing.

James Thomson

James Thomson

Attorney Advisor

Office of PCT Legal Administration

Tel.: (571) 272-3302